

DEPARTMENT OF JUSTICE
SB 154: Enhanced Driver License Option

SENATE HIGHWAYS AND TRANSPORTATION	
EXHIBIT NO.	1
DATE	11/20/09
BILL NO.	SB154

Background

Section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by Congress, changed the requirements for U.S. citizens and Bermudian, Canadian and Mexican nationals entering the United States at land and sea ports-of-entry from within the Western Hemisphere - Canada, Mexico, Bermuda and the Caribbean region. The new standard, commonly referred to as the Western Hemisphere Travel Initiative (WHTI or "witty"), is to be implemented in stages. The final stage, originally scheduled to take effect by June 30, 2009, requires the use of a passport or an alternative document designated by the Secretary of Homeland Security as acceptable to denote identity and citizenship at land and sea border crossings.

At the federal level, a wallet-sized passport card has been developed as a less expensive, smaller and more convenient alternative to a passport for those who travel frequently within the Western Hemisphere by land or sea. A passport card costs an adult \$45 and a minor \$35, for a term that equals that of a passport - 10 years for adults; five years for minors. Adults with a valid passport issued within the last 15 years can apply for a passport card by mail at a cost of \$20.

In the final rule implementing the Western Hemisphere Travel Initiative, the Department of Homeland Security (DHS) decided that an enhanced driver's license (EDL) or enhanced identification card (EID) issued by a state could be used as a WHTI-permitted alternate document when the license or card is issued in accordance with an agreement between DHS and the issuing state.

Features of an EDL or EID

An EDL or EID contains the same information as a driver's license or state-issued identification card, plus additional features that facilitate its use as a border crossing document. Those features include:

- a banner marking it as an enhanced license or card
- a symbol denoting U.S. citizenship
- a machine-readable zone (MRZ) on the back of the card, and
- an embedded radio frequency identification device (RFID) that is activated and can be securely read from up to 20 or 30 feet away.

To date, at least four states, including the northern border states of Washington, New York, and Vermont and in the south, Arizona, have entered into such agreements. In March 2008, Michigan passed a law authorizing its licensing authority, the Office of the Secretary of State, to negotiate an agreement with DHS to implement an EDL program.

The Department's EDL proposal

If adopted, SB 154 will give the Department of Justice authority to enter into an agreement with DHS to obtain its approval of a Montana enhanced driver license or identification card as a limited border crossing document under federal law.

No Montanan would be required to get an enhanced driver license or identification card. This proposal would simply give them the option, based on their travel needs, to obtain and carry one card that serves multiple purposes.

Whenever an EDL or EID is issued to a Montanan, Division staff will provide a written advisory concerning both the MRZ and RFID feature and that will state that the RFID does not contain any personal identifying information about the holder or any other information displayed on the front of the license or card. Every EDL or EID issued will also come with a protective sleeve that the holder may use to prevent the RFID from being read when the license or card is not in use at a border crossing station.

Because this license or card will carry additional features that require changes to our current card production model and a different product, Montanans will pay more for a Montana EDL or EID than a regular driver license or identification card. Our best estimate is that the cost to produce an EDL or EID will be between \$30-36 per card. SB 154 currently places a cap on the additional fee that can be charged for an EDL at \$36 and \$18 for an EID. That fee may have to be adjusted to ensure that the card production costs are recovered for every EDL and EID issued.

In addition to changes in the look of an EDL or EID, changes in the application processes are required that will impact FTE. Those changes, outlined in the bill, include:

- In person application at an exam station.
- Inspection and copying of all documents used to ascertain an applicant's identity and citizenship and verification of those documents in accordance with DHS standards.
- All employees responsible for processing and issuing EDLs or EIDs must be U.S. citizens and will be subjected to a background check as required by DHS.

SB 154 proposes a business model for EDL issuance that limits where these applications can be taken. The Division contemplates a phased-in rollout of service, beginning first in the driver exam stations in Billings and Great Falls, with expansion to Missoula, Kalispell, Helena, Bozeman and Glasgow, in year two and three, depending upon demand.

Because the application process for EDLs and EIDs requires staff to individually interview each applicant in accordance with standards set by DHS, in consultation with the U.S. State Department, the Division anticipates that one employee must be added to any station at which an EDL or EID is offered.

If the Division has not implemented an EDL or EID program on or before July 1, 2010, SB 154 requires a report by the Division to the appropriate interim committee explaining its implementation efforts and describing obstacles impeding implementation.